S.B. CIVIL WRIT PETITION NO.3475/2007.

Shyamvir Singh @ Boddy
Vs.
Baldev Singh and ors.

Date of order : 11/5/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Gaurav Gupta for the petitioner.

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Heard learned counsel for the petitioner.

This writ petition has been filed against the order dated 19/2/2007 whereby the application of the step sisters of the petitioner namely; Smt.Urmila and Smr.Nirmala for has been allowed by the learned trial court by directing their impleadment as defendants in the injunction suit filed by the plaintiff. The application has been allowed on the ground that the property in dispute is ancestral property and therefore they have a legitimate say in the matter.

Learned counsel for the petitioner argued that for determination of their rights and share in the property in question, the appropriate remedy for them was to institute a separate suit and not to become party in the present suit.

It was argued that the newly impleaded parties are in collusion with the defendants and the suit being in the nature of injunction only, their impleadment was abslutely unnecessary. It was argued that they had no share in the property because father of the petitioner had bequeathed the property by execution of will in his favour on 19/7/1984 and so long as newly impleaded respondents did not file a separate suit for declaration of their rights and partition of the property in qustion, their impleadment in the suit cannot be sustained in law.

Having heard learned counsel for the petitioner and perused the materials available on record, I find that mere impleadment of respondents No.3 and 4 in the suit does not by itself determine their rights. Neither does it decide correctness of the will nor decide the fact that they have any share in the property. The impleadment has merely enabled them to put up their case before the court.

In the facts of the case therefore, if the court has decided to implead them as party because property which is subject-matter of the suit is alleged to be ancestral, the

impleadment cannot be said to be contrary to law.

I therefore do not find any merit in the petition. The writ petition is accordingly dismissed in limine.

(MOHAMMAD RAFIQ), J.

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